

II. PROGRAM PROCEDURES - continued:

- “Standard Grants” provide up to 50% of eligible project costs, and “hardship grants” provide from 51% to 75% of eligible project costs. Local governments may submit one construction grant application each two-year funding cycle.
- (2) Matching Grants for Preliminary Engineering Studies - The maximum amount that will be awarded for a TSEP preliminary engineering grant is \$15,000. A dollar-for-dollar match is required.
- (3) Emergency Grants for Local Infrastructure Projects - Generally, emergency grants are limited to \$30,000 per project, but special exceptions may be approved. No local match is required on these emergency grants, but local governments are expected to expend reserve funds first. The emergency must be such that the project cannot wait to go through the normal process of applying for a construction grant.

Local governments apply to the program by submitting applications to the Montana Department of Commerce (DOC). DOC using a two-step process to evaluate construction grant applications. Applications are first ranked based upon the extent to which the proposed project relates to each of seven statutory criteria specified in MCA 90-6-710(2). In the second step of the process, the Department makes recommendations regarding the amount of the grant. DOC then prepares and submits a prioritized list containing the recommended projects and the amount of grant assistance for each project to the Governor. The Governor reviews the projects recommended by DOC and submits a list of recommended projects and recommended amounts of grant assistance to the Legislature. The Legislature then makes the final decisions on funding awards. The program procedures described below pertain primarily to the construction grants.

Preliminary engineering grants are awarded by DOC. With a few exceptions, the grants are awarded to local governments in the order the applications are received. There are no evaluation criteria. These grants are also awarded every two years until the program is out of funds.

Grant funds are disbursed to local governments as actual costs are incurred, on a reimbursement basis (i.e., expenditure driven grant).

During the course of the project, DOC monitors each local government through periodic on-site visits and written progress reports. DOC conducts at least one on-site visit for each TSEP project. Documentation of these on-site visits is provided by DOC, in writing, to the local government. All such monitoring letters, as well as other written correspondence and telephone notes related to monitoring of the project, should be maintained within the local government’s record keeping system. (**Note:** We recommend that the auditor review the local government’s record keeping system to become familiar with areas of potential non-compliance. If the auditor intends to place reliance on the DOC’s monitoring visits to reduce testing of some of the following compliance requirements, copies of DOC correspondence should be placed in the auditor’s working paper file.)

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. Compliance Requirements:

- Project expenses:
 - (1) Eligible expenses for TSEP construction grant funding include planning, engineering and architectural design, construction, erection, acquisition, site or other improvements, alteration, modernization, reconstruction, improvement, or expansion of the project, legal and audit services, reasonable and appropriate administrative expenses, interest and bond issuance costs attributable to a TSEP project, connection charges (hook-up fees and connection costs), water meters, and meter installation.
 - (2) Ineligible expenses include direct financial assistance for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under the control of the state; annual operation and maintenance costs; the purchase of non-permanent furnishings and fixtures or equipment that is not permanently installed in and solely dedicated to the operation of the project; refinancing existing debt, except when required in conjunction with the financing of a new TSEP project; and any cost incurred prior to the effective date of a signed TSEP contract between the grantee and DOC, unless specifically authorized by DOC.
(TSEP Application Guidelines; TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)
- Individual TSEP contracts will include the amount of the TSEP grant, a detailed budget for the project and the scope of work to be completed and the schedule for implementation of project activities, and the general and special terms and conditions associated with the project. The TSEP application, as approved, will become a part of the contract.
(TSEP Application Guidelines; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)
- Project administration costs must be classified and accounted for on the direct cost basis. Indirect costs are not eligible project costs.
(TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)
- TSEP funds cannot be used to reimburse local governments for any costs incurred prior to legislative approval of the TSEP project, such as expenditures associated with application preparation or previous engineering studies or plans. **(Note: Effective with grants awarded by the 2007 Legislature, unauthorized expenses incurred before July 1 of the award year are not eligible for reimbursement by TSEP. [i.e., for FY2008 contracts, the “incur date” was July 1, 2007])**
(TSEP Application Guidelines; TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. Compliance Requirements - continued:

- DOC will not reimburse the local government for expenses until the local government submits (1) evidence of a firm commitment of other funding, (2) an acceptable Project Management Plan and Implementation Schedule, (3) the DOC ensures that the local government is complying with accounting, auditing and reporting requirements, (4) a contract has been signed by the DOC and the local government, and (5) finally, DOC issues a letter of authorization called a "Notice to Proceed".
(TSEP Application Guidelines; TSEP Project Administration Manual, Chapter 1; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)
- If TSEP funds are used to pay local government employees, the employees should maintain logs summarizing daily activities, in conjunction with detailed hourly time sheets for TSEP-related work. The time sheets should clearly differentiate between time charged to the TSEP project versus time charged to other duties.
(TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedures:

- Review the project contract to determine the scope of services, detailed allowable costs and special conditions, if any, applicable to the project. Test selected expenditures to verify that all costs charged to the project are allowable. In particular, verify that expenditures for salaries and wages of staff working only partially on TSEP activities are documented by time sheets and logs summarizing daily activities.
- Review expenditure documentation and verify that no expenditures were reimbursed by TSEP that were incurred before the effective date of the signed TSEP contract, unless specifically authorized by DOC. (**Note: The "Notice to Proceed" from DOC will contain the effective date.**) Also, verify that no expenditures were reimbursed by TSEP that may have been incurred prior to legislative approval of the project (i.e., expenditures associated with application preparation or previous engineering studies or plans).

2. Compliance Requirements:

- All procurement of supplies, equipment, construction, and professional or other services must follow the procedures set out in Montana law. TSEP recipients may use the following four basic methods of procurement:
 - (1) Small Purchase Procedures - generally used for purchases of less than \$50,000 (as dictated by MCA 7-5-2301 & 7-5-4302). Local governments are required to get at least three proposals or price quotations for any item or service to be procured under this procedure. A limited solicitation is the preferred method for obtaining services. Written price quotations are the preferable form of documentation, although written supportive documentation is acceptable if price quotes are obtained orally.

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

2. Compliance Requirements - continued:

- (2) Competitive Sealed Bids - This process is to be used for construction activities involved in TSEP public facility projects;
- (3) Sole Source - Sole source procurement which will involve TSEP funds must have prior approval from DOC;
- (4) Procurement by Competitive Proposals - This is the recommended procedure for professional services such as an architect, auditor, or engineer, or administrative consultant for the TSEP project for which the cost will likely exceed \$20,000. Section 18-8-201, MCA, requires a competitive solicitation and negotiation process for architectural, engineering or surveying services fees which exceed \$20,000. If professional services will cost \$20,000 or less, DOC recommends a process of directly soliciting proposals and price quotes from and negotiating with individual firms.

(TSEP Project Administration Manual, Chapter 3; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

- Local governments are required to develop and retain documentation in their project files to demonstrate their reasons for choosing the method of procurement, the basis for selection or rejection of consultants, consultant qualifications, contract specifications, and scope of work. This documentation should include copies of the RFP, legal advertisements, affidavits from newspapers verifying publication, and other related selection materials, as well as the basis for the contract or purchase price. Financial information in support of any contract payments must also be maintained.

(TSEP Project Administration Manual, Chapter 3; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedures:

- Review the local government's project files (Consultant/Employee Selection File and Public Facilities Contracts File) and verify that documentation is available to demonstrate the local government's compliance with state procurement requirements. (**Note:** As part of its in-office review, DOC reviews the local government's RFP. In addition, as part of its on-site monitoring visit(s), DOC reviews the local government's procurement procedures for appropriateness and for compliance with state law.)
- Review financial information (vouchers, invoices, checks, etc.) and verify that contract payments agree to the contract price.

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

3. Compliance Requirements:

- Applicants must provide matching funds to assist in the financing of total project costs.
 - (1) Eligible matching funds include unexpended general funds or other cash, proceeds from the sale of general obligation, revenue, special assessment or other bonds, entitlement or formula-based federal or state funds, loan or grant funds from a state or federal program, local general funds or other cash which are available to finance eligible project development costs proposed as part of a TSEP project, and funds expended for engineering or application preparation which are directly related to the proposed project and which were incurred during the 24 month period prior to the TSEP application deadline. Also, included is the value of land or materials provided by the applicant if said items were appraised within the two years prior to application, the value of labor and value of machinery used in constructing the project that is owned or operated by the applicant.
 - (2) Ineligible matching funds include land, materials or services that cannot accurately and fairly be assigned a uniform monetary value, and funds expended on a project before it is approved for funding by the Legislature and Governor. (TSEP Application Guidelines; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)
- The 'Project Progress Reports' and 'Request For Funds Reports' must include detailed information on how matching funds were expended. The supporting documentation must include the 'Uniform Status of Funds Spreadsheet' and the 'Uniform Invoice Tracking Spreadsheet', and may require other types of documentation depending on what TSEP is reimbursing. (TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedure:

- Determine the type and amount of local match which the local government will provide for the TSEP project. Review financial records, the grant budget document, and selected Requests For Funds Reports to verify that the local match has been met. (**Note:** (1) A match is not required on each Request, but must be provided by the end of the project. (2) DOC monitors this requirement as part of its applicant ranking process, and through its periodic review of 'Requests For Funds Reports'.)

4. Compliance Requirements:

- Local government drawdowns are initiated by preparation and submission of the 'Request For Funds Report' and a 'Project Progress Report'. The amount requested must be consistent with the approved contract budget and the project progress report. (TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

4. Compliance Requirements - continued:

- Local governments are required to submit quarterly reports to DOC, which consist of 'Project Progress Reports'. However, a quarterly report is not required if the local government has filed a 'Request For Funds Report', accompanied by a 'Project Progress Report', during any calendar quarter. In addition, a final report is required to be submitted to DOC within 90 days of completion of TSEP-funded project activities.

(TSEP Project Administration Manual, Chapters 4 and 11; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedure:

- Review selected 'Requests For Funds Reports' and 'Project Progress Reports'. Verify that the information on these reports agrees with the local government's accounting records. Also, verify that the drawdowns requested are consistent with the project budget and implementation schedule. (**Note:** DOC reviews and approves all 'Requests For Funds Reports' submitted by the local government. In addition, the DOC randomly selects invoices submitted for reimbursement and follows the paper trail from the governing body's approval to payment to the vendor.)

5. Compliance Requirement:

- The local government is required to adhere to record keeping requirements, which DOC has established, to facilitate DOC's monitoring visits and audits of the local government. Original and complete documentation for all files must be retained in the official offices of the local government, and should be available for audit purposes during normal business hours. A general outline of a suggested filing system for project records that will meet DOC monitoring requirements can be found in Chapter 1 of the TSEP Project Administration Manual.

(TSEP Project Administration Manual, Chapter 1; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedure:

- During the course of the audit, verify that any project records needed by the auditor are readily available. (**Note:** DOC verifies the completeness and adequacy of the local government's record keeping system at the time of DOC's monitoring visit(s).)

6. Compliance Requirement:

- Budget amendments in excess of \$5,000 are subject to written DOC approval. Before DOC approves the amendment, the local government must provide a written justification that clearly demonstrates that the modification is appropriate. Minor amendments are noted by asterisks on the 'Requests For Funds Reports', and should be mentioned in the 'Progress Reports'. The TSEP program officer will indicate approval of these amendments by signing the documents. DOC will not approve

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

6. Compliance Requirement - continued:

amendments that would materially alter the circumstances under which the grant was originally ranked by DOC and approved by the legislature. If the proposed amendment represents a substantial change in project activities, DOC may require that the local government conduct a public hearing.

(TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedure:

- Determine if the budget for the project per the entity records is in agreement with the budget as originally approved in the project contract. If not, verify that the local government has received written approval from the DOC for the budget amendment(s), as outlined above. (**Note:** During monitoring visit(s), DOC verifies that changes in budgets and project activities have had prior approval.)

7. Compliance Requirement:

- The local government is required to maintain an accounting system that conforms to the accounting standards prescribed by the Local Government Services Bureau of the Department of Administration (DOA). (**Note:** All Montana local governments should adhere to the accounting and financial reporting standards adopted by the governmental accounting standards board, and they shall utilize the chart of accounts prescribed by the Department of Administration in the Budgetary, Accounting, and Reporting System for Montana Cities, Towns and Counties - BARS.) (TSEP Project Administration Manual, Chapter 4; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38; Administrative Rules of Montana, Rule 8.94.4101)

Suggested Audit Procedure:

- During the review of the TSEP project, verify that the accounting system utilized by the entity meets the above requirements, and that no significant accounting problems have developed during the course of the project.

8. Compliance Requirement:

- TSEP recipients must comply with the applicable state prevailing wage provisions. Recommended steps to be followed by local government officials to ensure compliance are as follows:
 - (1) Before the start of construction, designate an individual to ensure compliance with state prevailing wage requirements and to act as liaison with the contractor and DOC;

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

8. Compliance Requirement - continued:

- (2) Ensure that all bid documents, contracts, and subcontracts contain applicable prevailing wage provisions and current state wage determinations, and that all contractors and subcontractors are not currently debarred from working on state public works projects;
- (3) Conduct a preconstruction conference to inform all contractors and subcontractors of their labor obligations;
- (4) Conduct on-site project inspections which include employee interviews and checking for posting of current wage determinations at the project site;
- (5) Review weekly payrolls;
- (6) Resolve all labor violations promptly; and
- (7) Maintain detailed records to document all administrative and enforcement activities, as outlined above.

(Note: If federal funds are used to help fund a TSEP project, the federal labor requirements will in some cases supersede those of the state. Because federal labor requirements vary among federal agencies, the specific federal agency should be consulted for guidance.)

(TSEP Project Administration Manual, Chapter 6; Administrative Rules of Montana, Title 8, Chapter 94, Sub-Chapter 38)

Suggested Audit Procedure:

- Review the local government's project records (Labor Requirements File) and determine that the local government is taking steps to comply with the applicable State prevailing wage provisions. In particular, verify that (1) weekly payrolls have been initialed and dated to evidence that a review of the payroll has been performed by the local government, and that (2) the local government has conducted monthly interviews, and that interviews are held with a representative of each laborer classification and at least 10% of the workforce during the term of the project. If deemed necessary, test selected weekly payrolls for compliance with prevailing wage provisions.

(Note: As part of its on-site monitoring visit(s), DOC verifies that the local government has performed employee interviews and weekly payroll reviews, and also verifies compliance with prevailing wage provisions.)